CIVIL WRIT JURISDICTION CASE No.4305 OF 1990

1. **Sukhari Nonia** alias Sukhari Prasad
2. Motichand Nonia
   Both sons of late Sheobanshi Nonia
3. Mahesh Nonia son of late Rajbanshi Nonia
   All residents of village Tewari Chakiya, P.S. Bhorey, District – Gopalganj.
4. Panmati Devi wife of Budhraj Nonia and daughter of late Raj Banshi Nonia resident of village Moglahi, P.S. Unchkagaon, District – Gopalganj.

---------- Petitioners.

Versus

1. The State of Bihar
2. The Additional Member Board of Revenue, Bihar, Patna.
3. Additional Collector, Gopalganj.
4. Sub-Divisional Officer, Gopalganj.
5. (a) Mostt. Phulena Devi widow of late Jainath Tiwary, resident of Village Tiwary Chakiya, P.S. and P.O. Bhorey, District – Gopalganj.
   (b) Falejar Tiwary
   (c) Munna Tiwary
   (d) Balkeshwar Tiwary
   All sons of late Jainath Tiwary.
   (e) Gyanti Devi
   (f) Urmila Devi
   (g) Sumani Devi
   All daughter of late Jainath Tiwary.
6. Kishundeo Tewary son of late Deoraj Tewary
7. Deputy Collector Land Reforms, Gopalganj,

   Nos. 5 & 6 are residents of village Tewary Chakiya, P.S. Bhorey District – Gopalganj.

---------- Respondents.

WEB COPY NOT OFFICIAL

For The Petitioner : Mr. Ganpata Trivedi, Adv.
Mr. Dev Kumar Panday, Adv.
For the State Mr. Satyendra Kr. Jha, Adv
For The Respondent : J.C. to A.A.G. 7

P R E S E N T

THE HON'BLE MR. JUSTICE AJAY KUMAR TRIPATHI

****

A. K. Tripathi, J. Heard learned counsel for the parties.

Bereft of other details, the concise and precise submission of learned counsel appearing for the petitioners is

that the impugned order dated 25.04.1990 contained in Annexure – 6 passed by the Additional Member, Board of Revenue, Bihar, Patna, is an error of law. The only reason why the Revision Application has been dismissed was because there was a delay in filing the Revision Application and the Additional Member, Board of Revenue, expressed his opinion that he did not have power of condonation of delay under Section 5 of the Limitation Act.

Learned counsel for the petitioners however, relies on a Division Bench Decision rendered in the case ***of Kula Nand Jha Versus The State of Bihar & others reported in 1998 (2) PLJR 693,*** where it has been held that the authority would be in error in declining the power to condone the delay in filing an appeal or revision under the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus land) Act, 1961, (hereinafter referred to as the 'Act').

In view of the ratio in the case of Kula Nand Jha, writ application is allowed, Annexure – 6 is quashed.

The matter is remanded back to the Additional Member, Board of Revenue, Bihar, Patna, to consider the merits of the condonation application as well as the case afresh.

WEB COPY NOT OFFICIAL

Patna High Court
The 15th Day of
December, 2008,
NAFR/AFR,
Rajeev/

(Ajay Kumar Tripathi, J.)